



WP.(MD).No.971 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 20.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.971 of 2024

B.Sree Valli

... Petitioner

Vs.

1.The Director of School Education
College Road, Chennai - 600 006.

2.The District Educational Officer,
Thuckalay, Kanniyakumari District.

3.The Block Educational Officer,
Thuckalay, Kanyakumari District.

4.The Correspondent,
L.M.S. Higher Secondary School,
Kadamalaikuntu,
Kanniyakumari District.

5.The Correspondent,
L.M.S. Higher Secondary School,
Marthandam,
Kanyakumari District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the second respondent DEO to approve forthwith the appointment of the



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petitioner as Office Assistant in the fourth respondent School namely L.M.S. Higher Secondary School, Kadamalaikuntu, Kanyakumari District for the period from 24.03.2008 to 01.09.2011 and release the arrears of salary with all other attendant benefits.

For Petitioner : Mr.K.Ragatheesh Kumar
M/s.Isaac Chambers
For Respondents : Mr.M.Sarangan
Additional Government Pleader

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus, seeking to direct the 2nd respondent to approve forthwith the appointment of the petitioner as Office Assistant in the fourth respondent School namely L.M.S. Higher Secondary School, Kadamalaikuntu, Kanyakumari District for the period from 24.03.2008 to 01.09.2011 and release the arrears of salary with all other attendant benefits.

2.The brief facts which are necessary for the disposal of this Writ Petition is as follows:-

The petitioner was appointed as an Office Assistant on 24.03.2008 in the fourth respondent School and she served there till 01.09.2011. Thereafter, she was appointed on 02.09.2011 in the fifth respondent School vide proceedings of the Corporate Manager, CSI, Kanyakumari Diocese, Nagercoil dated 01.09.2011.



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Pursuant to the same, the petitioner is working in the fifth respondent School and the said appointment was duly approved by the second respondent by order dated 29.07.2016. However, the second respondent has not approved the appointment of the petitioner in the fourth respondent School, which was made on 24.03.2008. Hence, the petitioner repeatedly approached the second respondent requesting to approve her appointment in the fourth respondent School, which was made as early as on 24.03.2008. She also submitted several representations and the last of which, was made on 12.02.2020 and on 29.07.2021 and the same was also not considered. Hence, the Writ Petition came to be filed.

3.The learned counsel appearing for the petitioner submitted that as soon as the petitioner was appointed in the fourth respondent School, a proposal for approval of her appointment was duly made by the fourth respondent School. However, the said proposal was returned for want of certain certificates and that was duly complied and thereafter, the proposal was resubmitted for approval. However, the same was not considered and kept pending.



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4.The learned counsel appearing for the petitioner further argued that only since the said appointment was not approved in the meanwhile due to the vacancy, which had arisen in the fifth respondent School, the Corporate Management made up their mind to appoint the petitioner in the fifth respondent School. In view of the same, there was continuity of service in the same Corporate Management from the year 2008 to till date. On that basis, she is entitled for approval of appointment in the fourth respondent School on 24.03.2008 and pressed for allowing the Writ Petition.

5.Per contra, the learned Additional Government Pleader appearing for the respondents vehemently submitted that the appointment made in the fifth respondent School can be considered only as a fresh appointment and the second respondent had never approved the appointment of the petitioner in the fourth respondent School which was made as early as in the year 2008 and seeking approval of appointment of the petitioner in the fourth respondent in the year 2008 would not arise in the question of latches itself and pressed for dismissal of the Writ Petition.

6.For which the learned counsel appearing for the petitioner



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refuted the aspect of latches by submitting that the question of latches would be considered only when the third party right accrues in the case of consideration of approval of appointment of the petitioner. In this case, third party right has not accrued in any way. Hence, this Writ Petition is liable to be allowed.

7. Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondents and carefully perused the entire materials available on record.

8. In view of the above, this Court is of the considered view that the representation of the petitioner can be duly considered by the second respondent and without going into the merits of the case, I direct the second respondent to consider the petitioner's representation dated 07.06.2019 and the remainders dated 12.02.2020 and 29.07.2021 and pass appropriate orders in accordance with law within a period of four weeks from the date of receipt of copy of this order.



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9. Accordingly, this Writ Petition stands disposed of. There

shall be no order as to costs.

20.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn

To

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L.VICTORIA GOWRI, J.

Mrn

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